

ENTERED

January 06, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

EMERSON HANDY,

Petitioner,
VS.

BOBBY LUMPKIN,

Respondent.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 4:21-CV-4130

ORDER OF DISMISSAL

Texas state inmate Emerson Handy filed a petition for a writ of habeas corpus challenging his state court conviction for burglary of a habitation. Handy states that his petition is filed under 28 U.S.C. § 2241 but, because he is challenging a state court conviction, his petition is governed by 28 U.S.C. . § 2254.

Rule 4 of the Rules Governing Habeas Corpus Cases under Section 2254 requires a judge to “promptly examine” a newly filed petition. The rule states, in part: “If it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition”

Handy previously challenged this conviction in another habeas corpus petition. That petition was dismissed because it was barred by the statute of limitations. *See Handy v. Davis*, No. 4:18-cv-3560 (S.D. Tex. Jan. 21, 2020). For the same reasons that his prior petition was time-barred, this petition, filed more than three years later,

is also time-barred. The petition (Doc. # 1) is DISMISSED AS TIME-BARRED. No certificate of appealability is issued.

It is so ORDERED.

SIGNED on this 6th day of January, 2022.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge